

STATEMENT SUBMITTED
BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
TO THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

CONCERNING
PRICE-ANDERSON ACT RENEWAL

SUBMITTED BY
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Mr. Chairman, Members of the Committee, I am pleased to appear before you today to present the views of the Nuclear Regulatory Commission (NRC) on extending and amending the Price-Anderson Act. We hope that these views will assist the Committee in its consideration of the Price-Anderson Act renewal provisions in the energy policy bills pending before you (S.388, S. 472, and S.597). Our testimony, of course, addresses the application of the Price-Anderson Act to nuclear power plants regulated by the NRC.

I am here, to deliver the strong and unanimous recommendation of the Commission that the Price-Anderson Act be renewed with only minor modifications. But I would like to preface my statement of that position with the reminder that the Commission's primary concern is public health and safety. Our mission is to ensure the safe use of nuclear power. We can look back on a successful history of safe operation and intend to exercise vigilance to maintain or improve on this record of safety. Nonetheless, it remains important to assure that if an improbable accident should occur, the means are provided to care for the affected members of the public. It is also important, if the Congress intends that nuclear power remain a part of the nation's energy mix, that this option is not precluded by the inability of nuclear plant licensees to purchase adequate sums of insurance commercially.

As you know, Congress first enacted the Price-Anderson Act in 1957, nearly a half century ago. Its twin goals were then, as now:

- (1) to ensure that adequate funds would be available to the public to satisfy liability claims in a catastrophic nuclear accident; and

- (2) to permit private sector participation in nuclear energy by removing the threat of potentially enormous liability in the event of such an accident.

On original passage the Congress provided a term during which the Commission could extend Price-Anderson coverage to new licensees and facilities. When that term expired, the Congress then, and repeatedly since, has decided that the nation would be served by extending the Price-Anderson Act so that new coverage would be available for newly licensed reactors. This action preserved the option of private sector nuclear power and assured protection of the public. At this point, in order to avoid confusion, I should note that Price-Anderson coverage for NRC licensees is granted for the lifetime activities of the covered facility and does not “expire” in 2002. Thus, in any event, Price-Anderson coverage with respect to already licensed nuclear power reactors will continue and will afford prompt and reasonable compensation for any liability claims resulting from an accident at those facilities.

While Congress has amended the Price-Anderson Act from time to time, it has done so cautiously so as to avoid upsetting the delicate balance of obligations between operators of nuclear facilities and the United States government as representative of the people.

Perhaps the most significant amendments to date were those that effectively removed the United States government from its obligation to indemnify any reactor up to a half billion dollars and that placed the burden on the nuclear power industry. Congress achieved this by mandating in 1975 that each reactor greater than 100 MWe, essentially each reactor providing power commercially, contribute \$5 million to a retrospective premium pool if and only if there were damages from a nuclear incident that exceeded the maximum commercial insurance

available. The limit of liability was then \$560 million. Government indemnification was phased out in 1982 when the potential pool and available insurance reached that sum.

In 1988, Congress increased the potential obligation of each reactor in the event of a single accident at any reactor to \$63 million (to be adjusted for inflation). The maximum liability insurance available is now \$200 million. When that insurance is exhausted each reactor must pay into the pool up to \$83.9 million, as currently adjusted for inflation, if needed to cover damages in excess of the sum covered by insurance. The \$83.9 million is payable in annual installments not to exceed \$10 million. Today, the commercial insurance and the reactor pool together would make available over \$9 billion to cover any personal or property harm to the public caused by an accident.

In 1982, when the federal government ceased to be the backup insurer in the event of a power plant accident, the retrospective premium pool was still counted in hundreds of millions of dollars. Today the funds available to assist the public, counted in billions of dollars, are more than 15-times as great as they were in 1982. No other country in the world today can come close to matching that level of protection available for people injured and property damaged by a nuclear power plant accident.

In 1998, as mandated by Congress, the Nuclear Regulatory Commission submitted to the Congress its report on the Price-Anderson system. That report was entitled "The Price-Anderson Act -- Crossing the Bridge to the Next Century: A Report to Congress." The report included a concise history and overview of the Price-Anderson Act and its amendments as well as an update on legal developments and events pertaining to nuclear insurance and indemnity in the last decade. Congress had also required the NRC to address various topics that relate to

and reflect on the need for continuation or modification of the Act: the condition of the nuclear industry, the state of knowledge of nuclear safety and the availability of private insurance.

After considering pertinent information, the Commission considered what its recommendations should be. It concluded then that it should recommend that Congress renew the Price-Anderson Act because it provides a valuable public benefit by establishing a system for the prompt and equitable settlement of public liability claims resulting from a nuclear accident. That, as I said at the outset, remains today the strongly held position of the Commission.

Having noted that substantial changes in the nuclear power industry had begun and could continue, the Commission believed it would be prudent to recommend renewal for only ten years rather than the 15-year period that had been adopted in the last reauthorization so that any significant evolution of the industry could be considered when the effects of ongoing changes would be clearer. Notwithstanding that view, the Commission, recommended that the Congress consider amending the Act to increase the maximum annual retrospective premium installment that could be assessed each holder of a commercial power reactor license in the event of a nuclear accident.

The NRC suggested that consideration be given to doubling the ceiling on the annual installment from the current sum of \$10 million to \$20 million per year per accident. The total allowable retrospective premium per reactor per accident was to remain unchanged at the statutory "\$63 million" adjusted for inflation. (It is now \$83.9 million as so adjusted). The Commission recommended consideration of an increase to \$20 million because it then appeared likely that in the coming decade a number of reactors would permanently shut down.

The effect of these shutdowns would have been to reduce the number of contributors to the reactor retrospective pool. Fewer contributors would, in turn, reduce the funds that, in the event of a nuclear accident, would become available each year to compensate members of the public for personal or property damage caused by an accident. Increasing the maximum annual contribution available from each reactor licensee would provide continuing assurance of “up front” money to assist the public with prompt compensation until Congress could consider whether to enact additional legislation providing further relief, should it be needed.

Recent events have led the Commission to review its 1998 recommendations and to reevaluate its recommendation that Congress consider increasing the annual installment to \$20 million. There is now a heightened interest in extending the operating life for most, if not all, of the currently operating power reactors, and some power companies are now examining whether they wish to submit applications for new reactors or complete construction of reactors that had been deferred. As a result, the Commission does not believe that there is now justification for raising the maximum annual retroactive premium above the current \$10 million level.

The NRC appreciates the opportunity to present its views, and will elaborate further on any of them at your request. In addition, the NRC is preparing its views on the various bill affecting nuclear regulation pending before this Committee and would be pleased to provide these views for the record. Mr. Chairman, I welcome your comments and questions.